



DEPARTMENT OF PERSONNEL

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MEMO PERD #41/04

November 15, 2004

TO: Designees for Rules Distribution
FROM: Jeanne Greene, Director
Department of Personnel
SUBJECT: CHAPTER 284 ADOPTED TEMPORARY REGULATIONS

Enclosed are the temporary regulations that were adopted by the Personnel Commission on October 1, 2004 and became effective November 9, 2004, the date they were filed with the Secretary of State. The revisions appear in bold and italic type.

Included in these temporary regulations are changes in benefits granted to employees who were reemployed pursuant to SB37 of the 1999 Legislative Session (reemployed EICoN employees). At the last Personnel Commission meeting, its members requested additional information related to the restoration of sick leave for these employees. Due to this pending issue, the regulations related to EICoN reemployment benefits will not be implemented until the Personnel Commission has reviewed this final item. Once all issues have been resolved, the Department of Personnel will conduct informational meetings to assist departments in implementing these regulations.

Because temporary regulations will automatically expire on November 1, 2005, unless adopted as permanent, these regulations will be filed for permanent adoption after July 1, 2005. When the regulations are adopted as permanent, they will be distributed in final format and may be inserted in the *Rules for Personnel Administration* book.

Additionally, two replacement pages for the *Rules for Personnel Administration* are enclosed. Please replace the pages distributed in the *Rules for Personnel Administration* republished June 2004 with these pages. Be advised, these pages are correcting typographical and formatting errors and they do not amend the current regulations.

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Please advise all administrators and personnel representatives of these changes, as appropriate. You may wish to reproduce these pages and distribute them to all personnel rule recipients. These revisions are also available on the Department of Personnel website at <http://dop.nv.gov>.

If you have any questions regarding the information provided in this memo, please contact Tracy Walters at (775) 684-0130 or at twalters@dop.nv.gov.

JG:sq

cc: Agency Personnel Liaisons
Agency Personnel Representatives

NAC 284.182 Adjustment and retention of pay progression date; restoration of date of appointment and pay progression date. (NRS 284.065, 284.155, 284.175)

1. An employee receives a new pay progression date if he is:
 - (a) Promoted to a position that results in an increase of two grades or more; or
 - (b) Reinstated.
2. An employee retains his **current** pay progression date if he is:
 - (a) Promoted to a position that results in an increase of one grade;
 - (b) In a position that is reclassified to a higher class as a result of an individual classification study or an occupational study;
 - (c) Transferred to a position without receiving an increase in grade;
 - (d) Reappointed to a position at a grade that he formerly held;
 - (e) Reemployed; or
 - (f) Demoted.
3. If a person who is eligible for military reemployment is reemployed, he retains the pay progression date held when he separated from this State for his service in the military.
4. If an employee was promoted but is being restored to his former position pursuant to the provisions of NAC 284.462, the date of appointment and pay progression date of the former position must be restored.
5. Except as otherwise provided in this subsection, an employee's pay progression date must be adjusted:
 - (a) To equal 1 year of full-time equivalent service for an employee who changes from full-time employment to part-time employment or from part-time employment to full-time employment; or
 - (b) On a day-for-day basis for the amount of time the employee:
 - (1) **Was separated from State service if the employee is** reemployed within 1 year after the date on which he was laid off or received a seasonal separation.
 - (2) **Was separated from State service if the employee is** a person with a permanent disability arising from a disability related to work who is reemployed within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013.
 - (3) **Was on leave without pay or catastrophic leave if the employee is:**
 - (I) A nonexempt employee who is on leave without pay, or on catastrophic leave, in excess of 240 hours; or
 - (II) An exempt classified employee who is on leave without pay, or on catastrophic leave, in excess of 30 working days,

in a year, except for leave without pay for a work-related injury or illness pursuant to NRS 281.390 or on a military leave of absence pursuant to NRS 284.359 or a leave of absence without pay during a fiscal emergency pursuant to NAC 284.580. **If the total hours of leave without pay or catastrophic leave exceeding 240 hours is less than one full-time equivalent day for the pay class designation, an adjustment will not be made for those hours.** An employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation. As used in this subparagraph, "year" means a period equal to 12 months of full-time equivalent service measured backward from the employee's pay progression date. **If the employee continues to be on leave of absence without pay or catastrophic leave on his pay progression date, an adjustment will be made to his pay progression date once he returns to work.**

[Personnel Div., Rule III part § G, eff. 8-11-73]—(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 5-27-86; 8-22-86; 4-19-88; 7-21-89; 10-18-89; 3-27-92; 7-6-92; 9-16-92; 11-16-95; 3-1-96; 10-27-97; 10-27-97; R043-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R182-03, 1-27-2004)

NAC 284.210 Differential rate of pay for qualifying shift. (NRS 284.065, 284.155, 284.175)

1. As used in this section:

(a) "Differential rate of pay" means an adjustment in pay equivalent to an additional 5 percent of an employee's normal rate of pay.

(b) "Qualifying shift" means a period of work of 8 hours or more, of which 4 hours must fall between the hours of 6 p.m. and 7 a.m. **A "qualifying shift" includes a shift of 8 hours that is reduced to 7 hours due to daylight savings time.**

2. An employee is eligible for the differential rate of pay if he works in a unit which provides services requiring multiple shifts within a 24-hour period and he is:

(a) A nonexempt employee in the classified service who works:

(1) A qualifying shift; or

(2) Any shift of at least 8 hours that is other than a qualifying shift plus 4 or more hours between 6 p.m. and 7 a.m. In such cases, an employee must receive the differential rate of pay for only the hours worked between 6 p.m. and 7 a.m.

(b) An exempt classified employee assigned to a qualifying shift. In such cases, an employee must receive the differential rate of pay for all his regularly scheduled hours of employment on that workday.

3. If an employee is assigned to a qualifying shift when he is on paid leave or a holiday occurs, he must receive the differential rate of pay for that shift.

4. An employee assigned to a qualifying shift who is not in paid status for the entire shift must receive the differential rate of pay for the portion of the shift the employee is in paid status.

5. A nonexempt employee in the classified service who works overtime pursuant to NRS 284.180 in conjunction with a qualifying shift must be paid overtime at the differential rate of pay.

[Personnel Div., Rule III § I, eff. 8-11-73; A 7-3-76]—(NAC A by Dep't of Personnel, eff. 12-17-87; 7-21-89; 3-23-94; 10-27-97; R031-98, 4-17-98; A by Personnel Comm'n by R065-98, 7-24-98; A by Dep't of Personnel by R098-99, 9-27-99; R147-01, 1-22-2002; A by Personnel Comm'n by R069-02, 8-14-2002)

NAC 284.282 Longevity pay: Particular circumstances. (NRS 284.065, 284.155, 284.175, 284.345, 284.355, 284.3626)

1. Except as otherwise provided in NAC 284.580 for a leave of absence without pay during a fiscal emergency, an employee who is on leave without pay or catastrophic leave, or any combination of both, for the entire 6-month period of qualification is not entitled to longevity pay for that period.

2. The payment for longevity pay for a full-time employee will not be prorated pursuant to NAC 284.278 if:

(a) He is an exempt classified employee or exempt unclassified employee and he uses an amount of leave without pay or catastrophic leave, or any combination of both, that equals 30 days or less in a calendar year; or

(b) He is a nonexempt employee, the base hours established for his pay class designation are 40 hours per week or 80 hours biweekly and he uses 240 hours or less of leave without pay or catastrophic leave, or any combination of both, in a calendar year.

3. If the base hours established for a pay class designation exceed 40 hours per week or 80 hours biweekly, an employee in that pay class designation must be allotted leave without pay and catastrophic leave in proportion to his base hours and full-time equivalency. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limits set forth in subsections 2 and 4.
4. A part-time employee must be allotted leave without pay and catastrophic leave in proportion to his base hours and the full-time equivalency for his pay class designation. The longevity pay of such an employee will not be prorated unless his use of leave without pay and catastrophic leave proportionally exceeds the limit set for a full-time employee in his pay class designation pursuant to subsection 2.
5. An employee who retires pursuant to the provisions of chapter 286 of NRS or who dies during the 6-month qualifying period is eligible for longevity pay according to the applicable formula in NAC 284.278.
6. An employee who is laid off and is rehired within 1 year after the date of layoff is eligible for the longevity pay he would have earned if he had not been laid off. The longevity pay must be calculated as if the employee had been on leave without pay pursuant to subsection 2.
7. ***An employee who is reemployed after 1 year pursuant to SB 37 of the 1999 Legislative Session is eligible for longevity pay based on the total of his continuous service just prior to leaving State service plus his continuous service after being reemployed by the State.***
8. A person with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is eligible for the longevity pay he would have earned if he had not been separated from state service. The longevity pay of such an employee must be calculated as if the employee had been on leave without pay pursuant to subsection 2.
9. An employee is eligible to earn service credit for the calculation of longevity pay when he is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS and he uses accrued sick leave, accrued annual leave or accrued compensatory time to meet the difference between his normal pay and the benefits he receives. Such an employee ceases to earn service credit for the calculation of longevity pay when he is placed on a leave of absence without pay or catastrophic leave.
10. Service in a seasonal position must be credited toward the calculation of longevity pay if the employee is employed on December 31 and June 30 and if the requirements for eligibility for longevity pay have been met. If an employee in a seasonal position is not on the payroll on those two dates and he is reemployed within 12 months, the employee is entitled to receive prorated longevity pay for his service during the previous longevity period.
11. If a person is on leave of absence without pay for military service pursuant to NRS 284.359 or is reemployed within 90 days after the military service, the time during which he was not in paid status because of his military service will be counted as service credit for the calculation of longevity pay. The person is eligible for longevity pay for the time he is in paid status in accordance with the provisions of subsection 2.
12. If a nonclassified employee or an employee covered by NRS 284.022 is appointed without a break in service to the classified or unclassified service, the previous time served is counted for the purpose of calculating longevity pay, but the employee is not eligible for any retroactive longevity pay.

[Personnel Div., Rule III § M subsec. 7, eff. 9-6-74; A and renumbered as subsec. 6, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 12-17-87; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; 3-1-96; 10-27-97; R031-98, 4-17-98; R147-01, 1-22-2002)

NAC284.490 Reimbursement or prepayment for training or education. (NRS 284.343)

1. If an employee receives approval to take training or education that he requested to take, including, without limitation, a course or workshop:
 - (a) The employing agency may reimburse the employee for the expense of the training or education only after his successful completion of the training; or
 - (b) The employing agency may elect to prepay the cost of the training or education.
2. An employing agency may enter into an agreement with an employee requiring the employee to repay any money paid to him or on his behalf for the cost of training or education if:
 - (a) The employee fails to complete the training successfully; or
 - (b) Within 1 year after the successful completion of training or education that is not required by his job, the employee terminates his employment with the agency.

Any repayment from wages owed **by the employee** must not be taken from any payment for overtime owed to the employee and must not reduce the pay of the employee below the minimum wage required by federal law.
3. For the purposes of this section, "successful completion of training and education" means:
 - (a) Receiving a grade of C or better;
 - (b) Receiving a passing grade if the students are designated only as passing or failing the course;
 - (c) Receiving a certificate of completion; or
 - (d) Receiving other evidence of completion as predetermined by the appointing authority.

[Personnel Div., Rule X § D, eff. 1-18-82]—(NAC A by Dep't of Personnel, 10-26-84; R082-00, 8-2-2000)

NAC 284.5405 Annual leave: Credit upon reinstatement, rehiring, reemployment or transfer. (NRS 284.065, 284.155, 284.345, 284.350)

1. Except as otherwise provided in this section, any employee who returns to state service following a separation is eligible to accrue annual leave based on his total service with the State after he has completed 3 years of continuous service. The employee must requalify after each break in service.
2. An employee who is rehired within 1 year after being laid off accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.
3. ***An employee who is reemployed after 1 year pursuant to SB 37 of the 1999 Legislative Session accrues annual leave at a rate based on the total of his continuous service just prior to leaving State service plus his continuous service after being reemployed by the State.***
4. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 accrues annual leave at a rate based on his total state service. He may use his annual leave immediately upon accruing it if he has completed 6 months of employment.
5. An employee who is rehired within 1 year after being laid off is entitled to buy back the balance of the annual leave for which he received payment in a lump sum on the date of the layoff. The rate of pay at which he is rehired applies to the buying back of annual leave.

6. An employee with a permanent disability arising from a disability related to work who is reemployed following a separation from state service within 1 year after the date on which he sustained the permanent disability as determined pursuant to NAC 284.6013 is entitled to buy back the balance of the annual leave for which he received payment in a lump sum at the time of separation. The rate of pay at which he is reemployed applies to the buying back of annual leave.
 7. If an employee who was laid off before completing 6 months of employment is rehired within 1 year after his layoff, the amount of the unpaid annual leave he had earned before the layoff must be restored to him.
 8. If a person eligible for military reemployment is reemployed, he accrues annual leave at the rate which he would have earned if he had not left state service.
 9. If an employee is appointed without a break in service from a position under one appointing authority to a position under another appointing authority, the balance of his annual leave is charged to the agency to which he is appointed.
 10. If a nonclassified employee, an unclassified employee of the University and Community College System of Nevada, or an employee included in the State Personnel System pursuant to NRS 284.022 is appointed without a break in service to the classified or unclassified service, his annual leave must be recomputed to reflect the amount that would have accrued to him as a classified or unclassified employee less any annual leave which he used during his nonclassified, University, or governmental agency employment, and the remaining balance will be transferred to the new appointment. The amount of annual leave transferred by the employee pursuant to this subsection may not exceed the maximum amount which is permitted by the classified or unclassified rate of accrual as set forth in NRS 284.350 and NAC 284.538. The agency to which the employee is appointed is not responsible for payment of any annual leave in excess of the amount which is transferable. It is the responsibility of the employee who is transferring annual leave to seek payment of any excess amount of annual leave remaining to his credit from his former employer.
- (Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-19-88; 3-27-92; 11-12-93; 3-1-96; R031-98, 4-17-98; A by Personnel Comm'n by R096-03, 10-30-2003)

NAC 284.632 Layoffs: Calculation of seniority. (NRS 284.065, 284.155, 284.335, 284.380)

1. For the purposes of calculating an employee's seniority for NAC 284.614, 284.618 and 284.630:
 - (a) Except as otherwise provided in this section, the total number of years of continuous full-time equivalent service up to the effective date of the layoff must be included. ***For employees that were reemployed pursuant to SB 37 of the 1999 Legislative Session an employee's continuous service just prior to leaving State service is added to his continuous service after being reemployed by the State.***
 - (b) Except as otherwise provided in subsection 2, the sum of the calculation made pursuant to paragraph (a) or, if applicable, subsection 5 must be reduced by the following periods if those periods occurred during the 36 months immediately preceding the date of the notification of layoff:
 - (1) For a nonexempt employee, any combination of leave without pay and catastrophic leave in excess of 240 hours in a year;
 - (2) For an exempt classified employee or exempt unclassified employee, any combination of leave without pay and catastrophic leave in excess of 30 working days in a year; and
 - (3) Any time covered by a report on performance which rated the employee below standard except that no report on performance may be considered for the time covered within 75 calendar days before the notification of layoff was issued.

2. For the purposes of the reduction in the calculation of seniority required by paragraph (b) of subsection 1:
 - (a) The reduction may not include:
 - (1) A leave of absence without pay during a fiscal emergency of the State or an agency pursuant to NAC 284.580;
 - (2) A leave of absence without pay for a work-related injury or illness pursuant to NRS 281.390; or
 - (3) A military leave of absence pursuant to NRS 284.359.
 - (b) As set forth in subparagraphs (1) and (2) of paragraph (b) of subsection 1, an employee whose base hours are more than 80 hours biweekly must be allotted additional leave without pay and catastrophic leave in proportion to the base hours for his pay class designation.
3. Except as otherwise provided in subsection 4, if seniority is otherwise equal, seniority must be determined in the following order:
 - (a) Total time within the occupational group;
 - (b) Total time within the department; and
 - (c) By lot.
4. For the purposes of reemployment, if seniority is otherwise equal, seniority must be determined by lot.
5. A department may request from the Commission approval to calculate the number of years of continuous full-time equivalent service of an employee of the department by doubling the time spent by the employee in his present occupational group as categorized by NRS 284.171 and adding that amount to the time spent by the employee in all former occupational groups up to the date of layoff. If the Commission approves the request of the department to calculate the number of years of service pursuant to this section, the department shall use this method to calculate the number of years of service:
 - (a) Only to determine which employees will receive a layoff notice and not for the placement of those employees on the reemployment list; and
 - (b) Until the department seeks from and is granted approval by the Commission to revert to the method of calculating the number of years of service set forth in paragraph (a) of subsection 1.
6. As used in subparagraphs (1) and (2) of paragraph (b) of subsection 1, "year" means a period equal to 12 months of full-time equivalent service measured backward from the date of the notification of layoff.

(Added to NAC by Personnel Comm'n by R096-03, eff. 10-30-2003; A by R182-03, 1-27-2004)

effective date must be determined by the appointing authority and must be based on the date on which the request should reasonably have been submitted. A retroactive adjustment must not exceed 6 months from the date on which the Department of Personnel receives the request.

4. An adjustment of steps which is made pursuant to subparagraph (1) of paragraph (a) of subsection 1 may be revoked when:
 - (a) The recruiting problem which caused the adjustment was due to the geographical location of the position; and
 - (b) The employee transfers to an area where a recruiting problem does not exist.

The employee must be placed at the step he would have received if he had not received the adjustment.

(Added to NAC by Dep't of Personnel, eff. 8-14-90; A 7-1-94; R197-99, 1-26-2000; R147-01, 1-22-2002; R015-02, 5-2-2002)

NAC 284.206 Special adjustments to pay. (NRS 284.065, 284.155, 284.175)

1. The Department of Personnel may approve a special adjustment to the pay of an employee pursuant to this section. A request for a special adjustment to pay may be initiated by an employee, the appointing authority or the Department of Personnel. A special adjustment to pay does not constitute a promotion.
2. An employee may receive a special adjustment to pay equivalent to 5 percent of the employee's base rate of pay during any period in which:
 - (a) The employee works out of his class on a continuing basis and performs essentially all the duties and responsibilities of a position classified at a higher grade. To receive the increase, the employee must be assigned duties and responsibilities of the higher grade which are clearly demonstrated in the class specification and carry out the duties and responsibilities for at least 16 consecutive workdays before the increase becomes effective. The adjustment to pay pursuant to this paragraph is effective retroactively, commencing on the date on which the employee assumed the additional duties and responsibilities. The adjustment to pay must not continue for more than 6 months in any 12-month period unless:
 - (1) The employee is underfilling a position pursuant to NAC 284.437 and recruitment has failed to produce a sufficient number of applicants on the appropriate list.
 - (2) The duties and responsibilities that the employee has been carrying out have been assumed from one or more positions that have not been authorized to be filled because of a hiring freeze or fiscal emergency. A hiring freeze or fiscal emergency must be certified by the Chief of the Budget Division of the Department of Administration or, in the case of an agency that does not receive money from the State General Fund or the University and Community College System of Nevada, certified by the administrator of that agency or the System.
 - (3) The appointing authority submits a written request to the Director of the Department of Personnel accompanied by documentation justifying an extension of the 6-month period and certifies that money is available to pay for the continuation of the special adjustment to pay. The Director may authorize the continuation of the special adjustment to pay after receiving the request and documentation and determining that

NAC 284.658 “Grievance” defined. (NRS 284.065, 284.155, 284.384)

1. As used in NAC 284.341 and 284.658 to 284.697, inclusive, a “grievance” means an act, omission or occurrence which a permanent employee feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement. The act, omission or occurrence must be established with factual information including, but not limited to, the date, time and place of the act, omission or occurrence and the names of other persons involved.
2. For the purposes of NAC 284.341 and 284.658 to 284.697, inclusive, the term “grievance” does not include any grievance for which a hearing is provided by NRS 284.165, 284.376 or 284.390.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 8-28-85; 10-18-89; 8-1-91; 3-27-92; R082-00, 8-2-2000)

NAC 284.662 Providing assistance to employee. (NRS 284.065, 284.155, 284.384)

1. An employee filing for a review of a grievance may be assisted or represented by any person of his choosing, if the person agrees to act in this capacity, at any step of the procedure except the initial informal discussion with his immediate supervisor.
2. If the assistant is a state employee, he may only assist on his own time.
3. An employee may not be discriminated against in recruitment, examination, appointment, training, promotion, retention, classification, or any other personnel action for informally seeking or formally filing a request to have his grievance reviewed, testifying on behalf of another employee, helping another employee prepare a grievance report, or acting as a representative of any employee requesting a review of a grievance.
4. To assist in resolving an employee’s grievance, the resources and consultation available from the Department of Personnel and the personnel offices of the agency must be made available to all parties.

[Personnel Div., Rule XV part § A, eff. 8-11-73; A 6-9-74; 2-5-82]—(NAC A by Dep’t of Personnel, 10-26-84; A by Personnel Comm’n by R096-03, 10-30-2003)

NAC 284.678 Statement of grievance: Contents; time to file. (NRS 284.065, 284.155, 284.384)

1. Except as otherwise provided in subsection 3, an employee who feels aggrieved and wishes to file a formal grievance must submit his grievance in writing to his immediate supervisor on the official form, or in a letter if the official form is not available, within 20 working days after the date of the origin of the grievance or the date the employee learns of the problem. The parties should make every effort to resolve the grievance through informal discussions within these 20 working days.
2. If the employee submits a letter, it must include:
 - (a) His name;
 - (b) His most recent date of hire;
 - (c) His position;
 - (d) His department, division and section;
 - (e) His mailing address;
 - (f) His business telephone number;